



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 10, 2002

H.R. 2880 **Five Nations Indian Land Reform Act**

As ordered reported by the House Committee on Resources on March 20, 2002

SUMMARY

H.R. 2880 would make various changes to the laws that regulate restricted land held by individual Indians of the Five Nations tribes in Oklahoma (Muscogee, Seminole, Cherokee, Chickasaw, and Choctaw). Restricted land generally refers to certain real property owned by individual Indians of those tribes that is encumbered by certain federal laws. Assuming appropriation of the necessary amounts, CBO estimates that implementing the bill would cost \$90 million over the 2003-2007 period to pay for additional administrative costs of the Department of the Interior (DOI). Enacting H.R. 2880 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 2880 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). Enacting this legislation would involve some costs and some benefits for the state of Oklahoma and for local governments in the state, but these would not be caused by mandates. CBO cannot determine the net impact of the bill on these governments.

H.R. 2880 would grant authority to the Secretary of the Interior to partition certain parcels of undivided property held in trust for individual Indians of the Five Nations who own interests in such property. In the event that the Secretary orders a partition without the consent of each of the property owners, H.R. 2880 would impose a private-sector mandate on those not favoring the partition. CBO estimates that the cost of the mandate would be well under the annual threshold established in UMRA (\$115 million in 2002, adjusted annually for inflation). As part of the partition process, each owner would receive a parcel or some other form of compensation in proportion to his interest in the property.

MAJOR PROVISIONS

H.R. 2880 would make several changes to federal laws concerning restricted land held by individual Indians of the Five Nations. In particular, the bill would:

- Make all restricted property subject to restrictions against alienation, conveyance, lease, mortgage, or creation of liens regardless of the degree of Indian blood of the individual Indian who owns the property;
- Establish requirements enabling individual Indians to use proceeds from the conveyance of restricted property to purchase other property to be held in restricted status;
- Grant the Secretary of the Interior exclusive jurisdiction to approve conveyances, leases, and voluntary partition in-kind of restricted property;
- Grant the Secretary of the Interior exclusive jurisdiction to probate wills or determine heirs of deceased individual Indians and to adjudicate estate actions involving trust or restricted property and securities; and
- Authorize the Secretary of the Interior to administer certain oil and gas leases on restricted lands held by individual Indians.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2880 is shown in the following table. The cost of this legislation falls within budget functions 450 (community and regional development) and 300 (natural resources and environment).

	By Fiscal Year, in Millions of Dollars				
	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Additional Administrative Costs for Bureau of Indian Affairs					
Estimated Authorization Level	8	8	8	8	8
Estimated Outlays	6	8	8	8	8
Additional Administrative Costs for Minerals Management Service and Bureau of Land Management					
Estimated Authorization Level	11	11	11	12	12
Estimated Outlays	6	11	11	12	12
Total Changes					
Estimated Authorization Level	19	19	19	20	20
Estimated Outlays	12	19	19	20	20

BASIS OF ESTIMATE

H.R. 2880 would make various changes to the laws that regulate restricted land held by individual Indians of the Muscogee, Seminole, Cherokee, Chickasaw, and Choctaw tribes in Oklahoma. CBO estimates that implementing the bill would cost \$90 million over the 2003-2007 period for additional administrative costs to DOI, assuming the appropriation of the necessary amounts. For this estimate, CBO assumes that the bill will be enacted by the end of this fiscal year and that the necessary amounts will be appropriated for each year, beginning with 2003.

Bureau of Indian Affairs

Based on information from the Bureau of Indian Affairs, CBO estimates that it would cost the agency \$38 million over the 2003-2007 period for additional salaries and expenses to establish and maintain individual Indian accounts managed by the federal government and to review and make determinations on the additional land transactions that would be under the exclusive jurisdiction of the Secretary of the Interior. Such costs would be subject to future appropriation action. Proceeds from the conveyance or condemnation of restricted Indian property that are held by the Secretary on behalf of individual Indians are not considered budgetary funds. Consequently, CBO estimates that any change in the amounts held in the individual Indian accounts as a result of implementing this bill would have no impact on the federal budget.

Oil and Gas Royalty Management

Under current law, the Secretary of the Interior is responsible for administering oil and gas leases on lands that are held in trust on behalf of Indian tribes. Section 207 of the bill would authorize the Secretary to administer certain oil and gas leases on restricted lands that are not held in trust. Based on information from DOI about the number of leases that would be added under the bill, we estimate that this provision would increase federal spending by \$6 million in 2003 and \$52 million over the 2003-2007 period, mostly for increased costs to approve leases and audit royalty payments. Enacting the bill would not affect federal income from oil and gas leases.

PAY-AS-YOU-GO CONSIDERATIONS: None.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 2880 contains no intergovernmental mandates as defined in UMRA. Enacting this legislation would involve some costs and some benefits for the state of Oklahoma and for local governments in the state, but these would not be caused by mandates. Specifically, the changes made by this bill could affect the amount of property in some Oklahoma counties that is exempt from local property taxes. Also, by removing jurisdiction over matters regarding restricted property from the Oklahoma courts, this bill probably would reduce the burden now borne by the state and by some of its counties. CBO does not have sufficient data to determine the net impact of this bill on those governments. The bill would impose no costs on any other state, local, or tribal government.

The changes made by this bill would affect the tax base of Oklahoma and some of its local governments because most of the restricted property addressed by the bill is exempt from state and local property taxes. We anticipate that, with no change in current law, the amount of property remaining in restricted status would decline over time. Enacting H.R. 2880 probably would slow this decline, and thus result in some loss of state and local tax receipts. Also, it would make it easier for Indians to replace restricted property in one county with restricted property in another county, so it could change the distribution of this property among the affected counties.

H.R. 2880 would transfer jurisdiction for most matters concerning restricted property from state and local courts in Oklahoma to the federal government, and thus would shift some of the burden now borne by these state and local courts. As a result, the state and its counties could realize some savings, which would at least partially offset their losses.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 2880 would grant authority to the Secretary of the Interior to partition certain parcels of undivided property held in trust for individual Indians of the Five Nations, who own interests in such property. Generally, a partition of this type, partition in kind, involves dividing the property into individual parcels and distributing those parcels to each interest owner in proportion to his share in the undivided property. As an alternative, H.R. 2880 would also authorize the Secretary to secure the appropriate deeds from all interest owners to sell all, or a portion of the property, and divide the proceeds from the sale proportionally among the interest owners.

Under the bill, the Secretary would initiate the partition process at the request of at least one of the interest owners. Actual partition of the land would occur only after a period of negotiation between the Secretary and all interest owners, development of a partition plan,

and then approval of the partition plan by over half of the interest owners. In the event that the Secretary orders a partition without the consent of each of the property owners, H.R. 2880 would impose a private-sector mandate on those not favoring the partition. CBO estimates that because of the small amount of land involved and the negotiation process required under the bill, the cost of the mandate would be small and well below the annual threshold established in UMRA (\$115 million in 2002, adjusted annually for inflation). Although the bill may impose a mandate on certain interest owners, all of the owners involved in such a partition are likely to benefit as property values typically increase when undivided property interests are separated.

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